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DIRECT TESTIMONY

OF

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TELECOMMUNICATIONS DIVISION
ILLINOIS COMMERCE COMMISSION

DOCKET NO. 07-0549

Verified Petition of Illinois Bell Telephone Company (AT&T Illinois) and Verizon North Inc. and Verizon South Inc. (Verizon) for Waiver of the Equal Access Scripting Requirements of 83 Ill. Adm. Code Part 773.140(b)

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Table of Contents

I) INTRODUCTION 3

II) 83 ILL. ADM. CODE PART 773 - PRESUBSCRIPTION 4

III) THE FEDERAL EQUAL ACCESS SCRIPTING REQUIREMENT 6

IV) NEW DEVELOPMENT: CHANGES TO FEDERAL REGULATIONS 8

V) THE CURRENT ILLINOIS PRESUBSCRIPTION & BOCS' JOINT WAIVER 12

VI) AT&T and VERIZON PETITIONS AND ARGUMENTS FOR WAIVER 14

I) INTRODUCTION

Q. Please state your name and business address.

A. My name is A. Olusanjo Omoniyi and business address is 160 N. LaSalle Street, Chicago, Illinois 60601.

Q. What is your occupation?

A. I am a Policy Analyst in the Telecommunications Division of the Illinois Commerce Commission (hereinafter referred to as the "Commission").

Q. Describe your educational and professional background.

A. I hold a J.D. in Law from Southern Illinois University at Carbondale, where I also earned my Master of Arts in Telecommunications, Bachelor of Arts in Cinema and Photography and Bachelor of Science in Radio-Television degrees. I have been employed as a Policy Analyst in the Telecommunications Division of this Commission since 1999. I have been involved in various aspects of the telecommunications industry for over two decades including Internet development, systems integration, broadcasting, long-distance telephone service resale and telecommunications practice.

Q. What is the purpose of your testimony?

A. I will testify to issues relating to the Joint Petition of Illinois Bell Telephone Company (hereinafter "AT&T Illinois") and Verizon North Inc. and Verizon South Inc. (hereinafter "Verizon") for Waiver of the Equal Access Scripting Requirements of 83 Ill. Adm. Code 773.140(b).

Q. How is your testimony organized in this proceeding?

A. Specifically, I will address the existing obligations imposed by 83 Ill. Adm. Code 773.140(b) related to presubscription. I will then examine the obligations imposed by the Federal Communications Commission (hereinafter "FCC") rules on the Equal Access Scripting Requirements (hereinafter "EA Scripting Requirement") upon which the Illinois presubscription rule is based. Further, I will review the positions of AT&T Illinois and Verizon in seeking waiver of Equal Access Scripting Requirement with the FCC and their Joint Petition seeking a similar waiver of Illinois presubscription rules with this Commission.

II) 83 ILL. ADM. CODE PART 773 - PRESUBSCRIPTION

Q. Describe briefly 83 Ill. Adm. Code Part 773.

A. The Commission enacted Code Part 773 in 1995 and amended it on March 1, 2004. Code Part 773 is a set of administrative rules governing presubscription by telecommunications customers for long distance and local toll services. Presubscription is a process by which a customer can predesignate one or more interexchange carriers (hereinafter "IXC") to access its presubscribed switched intraMSA and interMSA calls, without dialing an access code. [1]

Q. What are the requirements of 83 Ill. Adm. Code 773.140(b)?

A. In order to allow customers to make a reasonable decision in selecting carriers to provide their long distance and local toll services, Code Part 773 imposes two

[1] 83 Ill. Adm. Code Part 773.

Equal Access Scripting obligations on incumbent local exchange carriers (hereinafter “ILECS”). ILECs are required to inform new customers that:

1) they have a choice of long distance providers, and
2) they can choose different providers for local toll (intraLATA) and long distance (interLATA) services.[2]

Part 773.140(b) applies to both residential customers and business customers with 20 lines or fewer.

Q. What are the procedures the carriers are supposed to follow in notifying customers of presubscription?

A To ensure customers are aware that they may presubscribe to a carrier of their choice to provide long distance and local toll service, each local exchange carrier is required to provide oral, written or prerecorded information to its customers regarding the availability of presubscription.[3] Such information must be provided in clear and neutral language without favoring one carrier over the other.[4] Moreover, the information must describe presubscription, the option of presubscription, and how to unfreeze or change a PIC.[5] Finally, the information for customers must describe any related charges in a manner that does not attempt to influence customers regarding their selections.[6]

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2 83 Ill. Adm. Code 773.140(b).
3 83 Ill. Adm. Code 773.140(a).
4 *Id.*
5 There are 2 types of PICs. “1-PIC” – is a presubscription method in which a customer’s presubscribed calls are carried by the interexchange carrier (IXC) of the customer’s choice, without the use of access codes. "2-PIC" is a presubscription method in which a customer's inter-market service area (MSA) calls are carried by an IXC of the customer's choice and its intraMSA presubscribed calls are carried, at the customer's choice, by the local exchange carrier (LEC), by the IXC chosen to carry interMSA calls, or by another IXC, without the use of access codes.
6 83 Ill. Adm. Code 773.140(a)

Q. What are the goals of 83 Ill. Adm. Code Section 773.140(b)?

A. The main goals of the equal access scripting requirement are to promote and protect customer interests. Equal access scripting mandates that customers seeking new telephone exchange service from ILECS must be given information regarding available competitive options, so as to assist them in making informed decisions in choosing their long distance providers. Furthermore, the equal access scripting requirement serve to make it less likely that ILECs will not maintain an undue competitive advantage against competitors since new customers will be given information regarding other competitive carriers. Finally, there is a general belief that the equal access scripting allows the ILECs to work within a unified guideline, an instance that presumably promotes reasonable efficiency and consistency.

III) THE FEDERAL EQUAL ACCESS SCRIPTING REQUIREMENT

Q. What are the federal rules and regulations of EA Scripting Requirement?

A. At the time of the divesture resulting from the Modification of Final Judgment,[7] competition in the long distance market was in its infancy with AT&T[8] occupying a dominant position. As a result, in 1985, the FCC implemented a number of measures to encourage competition and consumer choice. One of the steps the FCC took was to require equal access, allowing customers to gain access to interexchange carriers of their choice.[9] The FCC's Equal Access Scripting

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7 U.S. v. Western Electric, 552 F. Supp. 2d 131(D.D.C. 1982)

8 The long-distance carrier, subsequently acquired by petitioner AT&T.

9 Memorandum Opinion and Order, *In the Matter of Investigative of Access and Divesture Related Tariffs,* 101 FCC 2d 911, ¶ (1985)

Requirement required ILECs to inform customers who called to obtain new local exchange service that they might obtain long distance service from other carriers, and to read the customers a list of carriers offering long distance in their area upon request.[10] The equal access scripting requirement are incorporated into the Telecommunications Act of 1996 by Section 251(g) of the Act, 47 U.S.C. § 251(g).[11]

Q. What is the relationship between the state and federal regulations of presubscription or EA Scripting Requirement?

A. The presubscription rule that the Commission put in place in 1995 mirrored federal EA scripting regulations in several respects.[12] First, the state regulation also was intended and implemented to promote competition, particularly with the long distance market being relatively new[13]. Secondly, ILECs were required to inform customers that they could choose toll carriers and upon request the list of carriers must be provided to the customers. In essence, the state regulations not only complement but work in similar version with the federal regulations. Finally, additional steps have been taken to further align the state regulations with the federal regulations between 2003 and 2004. For instance, in 2003, in Section

[10] *In the Matters of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, WC Docket No.02-112, 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules, CC Docket No. 00-175, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, WC Docket No. 06-120, Report and Order and Memorandum Opinion and Order, FCC 07-159, adopted August 30, 2007, released August 31, 2007("*FCC Long Distance Order*").

[11] *See* 47 U.S.C. § 251(g). In general terms, section 251(g) requires continued compliance with equal access and nondiscrimination requirements established prior to the enactment of the Telecommunications Act of 1996 by court order, consent decree, or the Commission until those requirements are explicitly superseded by subsequent Commission action.

[12] *See* Order, *Illinois Commerce Commission On Its Own Motion: Adoption of rules relating to intra-Market Service Area Presubscription and Changes in Dialing Arrangements related to the implementation of such presubscription*, Docket No.94-0048 (Apr. 7, 1995) ("*1995 EA Order*").

[13] *Ibid.*

773.140, the Commission revised the customer notification rules and procedures to make sure they mirror the then-current federal EA Scripting Requirement and represent reasonable balance among the various parties' positions. The final customer notification rules went into effect on March 1, 2004.[14]

Q. How have the state and federal regulations worked so far?

A. Judging by the implementation of the regulations by various carriers it can be concluded that the rules have worked reasonably well. It appears that compliance by carriers has been fairly consistent with the goals of the regulations.

IV) NEW DEVELOPMENT: CHANGES TO FEDERAL REGULATIONS

Q. What is the current federal EA Scripting Requirement?

A. On August 31, 2007, in response to a number of petitions from the BOCs requesting for review of a number of regulations covering three governing BOC Separate Affiliate and Related Requirements, and AT&T's request for forbearance under Section 47 U.S.C 160(c) regarding dominant carrier regulations for in-region, interexchange services, and further in accordance with the Biennial Review of Section 64.1903 of the FCC's rules, the FCC promulgated new rules to govern the provision of in-region, long distance services by the Bell Operating Companies (BOCs) and their independent incumbent local exchange carrier (ILECS) affiliates.[15]

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[14] Order, ¶ 1, *Illinois Commerce Commission on Its Own Motion: Amendment of 83 Ill. Admin. Code 773*, ICC Docket No. 03-0203 (December 17, 2003) ("*2003 EA Order*").

[15] See *FCC Long Distance Order.*

Q. What are the rationales for the new federal framework on EA Scripting Requirement?

A. The FCC stated that rules that have become "unnecessarily burdensome" such that they should be replaced with "less intrusive measures that protect important customer interests while allowing the BOCs and their ILEC affiliates to respond to marketplace demands efficiently and effectively."[16] The FCC was of the opinion that the revised rules would lessen burdens and costs on the BOCs. The FCC determined that it was necessary to grant forbearance from the EAS requirement to the BOCs.[17] The FCC determined that forbearance was justified because of changes in the marketplace since the requirement's adoption, and the requirement's relative costs and benefits. Furthermore, the FCC determined that continued application of the EA scripting requirement was not in the public interest. The FCC concluded that enforcing the EA Scripting Requirement is no longer justified.[18]

Q. How did the FCC fashion out its new framework?

A. The FCC examined its existing EA Scripting Requirement by reviewing the statutory forbearance standard under Section 10 of the Communications Act for the creation of a "pro-competitive, de-regulatory national policy framework". This consists of application of a set of three-prong factors in determining that the:

1. Enforcement of the provision or regulation is not necessary to ensure the telecommunications carriers charges, practices, classifications, or

16 Id, ¶¶. 1-3.
17 Id.
18 Id., ¶118. Section 10 of the Communications Act is codified as 47 U.S.C. §160(a).

regulations are just, reasonable, and not unjustly or unreasonably discriminatory;

2. Enforcement of the provision or regulation is not necessary to protect consumers; and
3. Forbearance is consistent with the public interest.

In reaching its decision, the FCC was also required to consider the issue of 'whether forbearance from enforcing the provision or regulation will promote competitive market conditions"[19] in accordance with Section 10(b) of the Communications Act.

Q. What are the FCC's findings pursuant to application of its statutory forbearance standard?

A As a result of its analysis, the FCC reached a number of findings in support of forbearance from continued application of the EA scripting requirement. First, the FCC found that the market condition that justified the imposition of EA Scripting Requirement, specifically, the stand-alone long distance market, has become a fringe market.[20] According to the FCC, current market conditions now tend toward carriers offering long distance service bundled with other services, rather than offering stand-alone long distance services. Likewise, consumers now buy bundled services that include both local and long distance services from the same providers instead of seeking services from multiple providers. The FCC cited AT&T as an example of an independent interexchange carrier that has merged with an ILEC and that now offers long distance service bundled with local

[19] Id., ¶118.
[20] Id., ¶120.

service. This has changed the market conditions underlying the EA scripting requirement.

Second, and related, the FCC observed that the minority of consumers that continue to buy stand-alone long distance services have available to them additional providers of long distance service; specifically, numerous mobile wireless services providers offer long distance call services. The FCC further observed that other alternative method of making long distance calls includes the use of prepaid calling cards.[21] The FCC noted that these alternative methods of long distance calls were not readily available during the time the EA scripting requirement was put in place in 1985. The FCC found that notwithstanding the development of these competitive long distance service alternatives, the EA scripting requirement remains unchanged and "focuses solely on alternative presubscribed wireline long distance providers."[22] Thus, according to the FCC, the EA scripting requirement, rather than increasing consumer awareness of competitive alternatives, might, in fact, confuse or mislead consumers and cause them not to investigate alternative means of making long distance calls."[23] The FCC found that the existing EA Scripting Requirement is "likely to distort competition" and, rather than being a "necessary" rule for the protection of consumers [, the requirement] could hinder consumers' awareness of competitive alternatives."[24]

Turning to the third prong, the issue of public interest, the FCC found that since

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[21] Id., ¶ 122.
[22] Id.
[23] Id.
[24] Id., ¶ 123.

the existing EA scripting requirement could distort competition and harm consumers," forbearance from applying it is in the public interest. [25]

Q. What steps has the FCC taken as a result of its view for a new framework?

A. Based upon its findings, the FCC granted forbearance from application of the EA Scripting Requirement to AT&T and similarly situated BOCs and ILECs, including Verizon and Qwest. In other words, the FCC granted forbearance to BOCs as a class by concluding that even the points raised by the opponents of forbearance from the EA Scripting Requirement did not focus on factors unique to AT&T: rather they raised points that are relevant to the BOCs as a group.[26] The new framework has since been in effect since August 31, 2007.[27]

V) THE CURRENT ILLINOIS PRESUBSCRIPTION AND BOCS' JOINT WAIVER

Q. How does the new FCC ruling on the EA scripting requirement relate to Illinois' presubscription rules?

A. AT&T and Verizon now seek waiver from the Illinois presubscription rule, 83 Ill. Adm. Code 773, based on the FCC's action. The two companies make identical arguments for the waiver or forbearance from the application of the Illinois rule.[28] Both carriers contend that the new federal rule require revision of the Illinois rule based on the considerations relied upon by the FCC.

Q. What are the arguments offered by both AT&T and Verizon to support their petitions for waiver?

A. According to both carriers, the reasons why they should be granted waiver from

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25 Id., ¶ 124.
26 Id., ¶126.
27 Id., ¶127.
28 See *Direct Testimony of Karen H. Boswell on behalf of Verizon North, Inc. and Verizon South, Inc., November 12, 2007 and Direct Testimony of Rebecca A. Sutherland on behalf of AT&T Illinois, November 12, 2007.*

Illinois subscription rule include:

1. Changes in telecommunications market conditions – in terms of increase of choices for customers that they did not have before now,
2. Consumers ‘ awareness of a variety of choices to meet their telecommunications needs,
3. Customers now think differently on how they purchase telecommunications services, and
4. The effect of various changes on the stand-alone long-distance market which was what the FCC focused on when it adopted the EA Scripting Requirement.

Both AT&T and Verizon contend that, the same market conditions the FCC found to exist prevail in Illinois and as such they should be given a waiver from the Illinois Presubscription Rules.[29]

Q. What is the Illinois statutory standard for waiver of any regulatory rule?

A. The statutory standard for obtaining a waiver of enforcement, in other words forbearance, of an ICC rule is Section 13-513 of the Public Utilities Act (hereinafter “PUA”). Section 13-513 states as follows:

> A telecommunications carrier may petition for waiver of the application of a rule issued pursuant to this Act. The burden of proof in establishing the right to a waiver shall be upon the petitioner. The petition shall include a demonstration that the waiver would not harm consumers and would not impede the development or operation of a competitive market. Upon such demonstration, the Commission may waive the application of a rule, but not the application of a provision of this Act. The Commission may conduct an investigation of the petition on its own motion or at the request of a potentially affected person. If no investigation is conducted, the waiver

[29] Joint Verified Petition of AT&T and Verizon for Waiver, November 12, 2007.

shall be deemed granted 30 days after the petition is filed.[30]

Q. Are both carriers' requests for waiver of Illinois presubscription rule justified?

A. Both carriers have advanced essentially the same arguments, that each should be given a waiver. Each claims that it has met the standard for waiver of rules.

VI) AT&T and VERIZON PETITIONS AND ARGUMENTS FOR WAIVER

Q. What are the reasons advanced by both carriers that they deserve waiver?

A. Both AT&T and Verizon argue that they should be given a waiver on two grounds:

1. Continued application of the EA Scripting Requirements for its intraLATA toll in light of the forbearance of EA Scripting requirements for interLATA toll service, will only serve to confuse and frustrate customers,[31] and.
2. Changes in the telecommunications market have greatly reduced the relevance of the Illinois EA Scripting requirement.[32]

The two carriers are seeking waiver for two of their customers groups: consumer (residential) customers and business customers with 20 lines or less.[33]

Q. Does the changed market conditions in Illinois within the carriers' areas of service justify granting of waiver?

A. AT&T contends that currently there are many options for toll calling available for customers using traditional wireline telephone service citing Chicago, one of its areas of service (its MSA-1), in Illinois as an example. Among various changes

[30] 220 ILCS 5/13-513.
[31] Direct Testimony of Rebecca A. Sutherland on behalf of AT&T Illinois, November 12, 2007 at 4.
[32] Id. ¶ 4.
[33] Id.

that AT&T argues have now affected its market area are:

1. Customers in its Chicago area can now select between AT&T and "approximately 68 other companies for long distance ("LD") or local toll service."[34]
2. "A bundle of services that includes local service from both AT&T Illinois" and its affiliate "AT&T Long Distance,"[35] and
3. The fact that some people might choose alternatives to traditional wireline service like wireless, cable or voice over internet protocol (VOIP) for some if not all of their telecommunications needs.[36]

According to AT&T, these choices are available to both consumer and business customers.[37]

Verizon arguments mirror AT&T's position. First, Verizon contends like AT&T that changes in the telecommunications marketplace eliminated the need for intraLATA EA Scripting Requirements.[38] Also, Verizon states that "not only are there hundreds of competitive providers of telecommunications services in Illinois," such as VoIP, cable and wireless providers."[39] Verizon also affirms that several of the providers "advertise widely through many media," thus, providing constant reminders of the availability of competitive alternatives" to the consumers.[40] Finally, Verizon argues that consumers "no longer choose a separate intraLATA toll provider because they subscribe to bundled products and

[34] Id. ¶ 6.
[35] Id.
[36] Id.
[37] Id.
[38] Direct Testimony of Karen Boswell on behalf of Verizon, p. 5.
[39] Id.
[40] Id.

services."[41]

Q. What are your opinion and recommendation on the carries positions?

A. I do not dispute the assessment that there have been changes in the telecommunications market particularly in Illinois in terms of increasing number of long distance telephone providers. It is possible that customers in the aggregate are aware that they can choose among long distance providers, although I note that each of the petitioning carriers remains very dominant in its service area.

I disagree with both carriers' arguments on the roles of substitute services such as wireless, cable and VoIP. Contrary to the view of both carriers, the providers of wireless, cable and VoIP offer services attractive to customers with certain discrete needs. For instance, VoIP service does not necessarily replace wireline service, particularly among multi-line business customers. Likewise, it is difficult to see how wireless telephony is suitable for certain business needs. Wireline service is still the primary and preferred modality of telecommunications service of most business customers.

In contrast, residential customers appear somewhat more likely to take non-wireline service. A not-insubstantial percentage of residential customers have foregone wireline service in favor of wireless services.

While it is not clear to me that the FCC's findings regarding market conditions are directly applicable to Illinois, I recommend that the Commission waive its presubscription rule with respect to Verizon and AT&T, since it will neither limit the obligations of AT&T and Verizon to provide equal access to

[41] Id. at 5-6.

intraLATA long distance service nor limit the option of consumers to use the providers of their choice.

Q. What about the carriers position on customers awareness today of telecommunications products and services?

A. Both AT&T and Verizon asserted that several telecommunications carriers have extensively advertised their services to "reach potential consumer and business customers."[42] They contend that the advertising has made customers more educated and aware that they have choices in all aspects of telecommunications products and services."[43]

Q. What is your opinion on the carriers' claim that customers are more aware of their choice of telecommunication carrier?

A. There is no doubt that the telecommunications carriers now advertise their products and services in various media. Looking at the time when the FCC regulation was initiated in 1985 and when this Commission rules was enacted in 1995 and subsequently updated in March 2004 till now, the telecommunications market has indeed changed. I am less certain that current telecommunications advertising is useful in assisting customers to make informed choices about rates terms and conditions; rather the bulk of advertisement appears to me to be intended to reinforce name branding as mergers of telecommunications carriers have created the need for new image and name. Thus, the issue of choices to customers has now taken an added dimension if not in terms of selection of services but in terms of the need to prevent confusion of customers.

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[42] *Id.*, ¶ 7.
[43] *Id.*

Q. What do you consider a more compelling argument for the proposed waiver?

A. In both intraLATA and interLATA scripting obligations, there is a need for harmonization of state and federal notification requirements. As the FCC has eliminated the interLATA scripting obligations, only the state intraLATA scripting obligations remain. This creates inconsistent state and federal obligations. It is fair to argue that there is a need for harmonization at least to prevent possible confusion to the consumers that the state scripting obligations rule is supposed to protect in the first place. Based on the arguments of both carriers, they also appear to take the view that the need to eliminate their advertising expenses and save money is a justification that the presubscription is no longer necessary. This is a reasonable assertion. I recommend granting of the Joint Petition on the basis that presubscription rule of the Commission may become costly and unnecessary requirement that the carriers must inform consumers of their right to select the intraLATA carrier of their choice. Also, there is a need to avoid conflicting obligations between federal and state on these carriers.

Q. What are AT&T's and Verizon's positions on how customers now think about how they purchase telecommunications services?

A. Both AT&T and Verizon argue that customers can now buy their services in bundle from same source "at a set price" citing for example bundling of "local and toll service together with other products and services, such as wireless or internet service."[44] Both carriers contend that the customers now focus on "how to bundle

[44] *Id.*

the various telecommunications services the customer desires into the most attractive and cost-effective package."[45]

Q. What is your position on AT&T and Verizon's claims?

A. There is no doubt that customers are now able to buy their services in bundle from carriers of their choice. However, arguments advanced by AT&T and Verizon that the Commission should consider bundling do not necessarily relate to the issue of EA presubscription. Also, both carriers noted that internet service is one of the services customers may "bundle" under certain plans; the fact is that there is no strong relationship between internet service and the selection of long distance provider. In addition, the Internet service is a non-telecommunications service under the federal Act. Similarly, wireless service, while it can undoubtedly be purchased as a part of bundled services, is unrelated to the choice of a long distance service provider because, wireless service usually includes both local and long-distance services, and anyone bundling it with wireline service will face wireline presubscription in any case. Therefore, it does not appear to affect presubscription rules particularly because of the fact that Illinois presubscription rules, like the federal EA scripting requirement, are geared toward wireline services.

Q. What are the set of criteria AT&T and Verizon state should be considered for waiver of Illinois presubscription rules?

A. AT&T and Verizon contend that the waiver should be granted upon showing that the waiver would neither harm consumers nor impede the development or

[45] Id. at 7-8.

operation of a competitive market. In my opinion, this is generally accurate.

Q. What are the reasons AT&T and Verizon advanced with regards to whether consumers would be harmed by the waiver?

A. AT&T offers two reasons why customers would not be harmed by granting it a waiver of the presubscription rule in Illinois. First, according to AT&T, granting the waiver "would save customers' time."[46] AT&T contends that this would happen because "customers today are quite educated on their telecommunications choices, including selection of both local and toll services. AT&T also claims that "listing of the options to customers simply increases the length of calls" and may even be overwhelming to customers and a waste of time an incident that may be "detrimental to AT&T's goals of creating an excellent customer experience."[47] Second, AT&T argues that elimination of the "EA scripting requirement would eliminate a potential source of customer confusion."[48] Verizon also echoed AT&T position and reasons.[49]

Q. What are your opinion and recommendation on the two arguments advanced by both AT&T and Verizon?

A. The first argument is reasonable. The argument, that elimination of EA Scripting Requirement "would eliminate a potential source of customer confusion," is based in part on the need to address two conflicting policy goals. The goal of the Illinois presubscription rule is in part to inform the customer, while the new federal EA scripting requirement rules effectively do away with the scripting

[46] Id. at 9.
[47] Id.
[48] Id. at 9-10.
[49] *Direct Testimony of* Karen Boswell at 10.

requirement, leading to the conclusion that the FCC views customers as being adequately informed without EA disclosures.[50] The two inconsistent rules might well result in consumer confusion in Illinois because it would lead to the customers being provided with information regarding intrastate, but not interstate presubscription, a distinction that, in my opinion, is likely irrelevant to most customers. Thus, AT&T's argument that it would lead to confusion sounds reasonable. Verizon also emphasized this point in its argument, contending in large part, that the current Part 773.140(b) is no longer consistent with federal EA requirements.[51] As a result, Verizon argues that Illinois rule should be eliminated. Thus, given inconsistent state and federal rules, and the likelihood of confusion resulting from this, I recommend that the Commission waive its own subscription rules as it applies to both AT&T and Verizon so as to eliminate any seeming inconsistency between federal and state regulations and potential associated consumer confusion.

Q. AT&T and Verizon assert that granting the waiver would not impede development or operation of a competitive market. What is your view?

A. Both carriers contend that the FCC's conclusion that competition in the marketplace among carriers has been replaced by competition for service bundles in the telecommunications market. The Commission has found competition to exist with respect to certain AT&T services in MSA-1 (or Chicago service area). Thus it is a fact that competition is growing.

Q. What are your opinion and recommendation on the carriers' positions?

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[50] Id.

[51] *Direct Testimony of Karen Boswell* at 7.

A. I think that the Commission need not consider this. I agree that this waiver be granted because of its administrative convenience in terms of streamlining the state presubscription rule with that of the new federal EA scripting requirement. Also, a waiver should be granted because of the need to avoid consumer confusion.

Q. If granted the requested waiver, would the carriers still be subject to all remaining provision of parts of the Part 773?

A. Verizon states that "the requested waiver is narrow in scope and would not affect the application of the remaining requirements of Part 773."[52] However, the fact is that the nucleus of Part 773 is the presubscription rule.

Q. Based on the reasons advanced by AT&T and Verizon, should the Commission grant the Joint Petitions for waiver filed by the carriers?

A. Yes. I believe a grant of waiver is justifiable for the limited reasons established in this testimony.

Q. Does this conclude your testimony?

A. Yes.

[52] *Id.* at 11.